

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4529
OFFERED BY MR. POMBO

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This title may be cited as the “Arctic Coastal Plain
3 and Surface Mining Improvement Act”.

4 TITLE I—OIL AND GAS LEASING
5 PROGRAM FOR COASTAL
6 PLAIN OF ALASKA

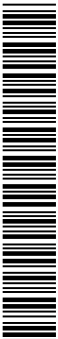
7 SEC. 101. SHORT TITLE.

8 This title may be cited as the “Arctic Coastal Plain
9 Domestic Energy Security Act of 2004”.

10 SEC. 102. DEFINITIONS.

11 In this title:

12 (1) COASTAL PLAIN.—The term “Coastal
13 Plain” means that area identified as such in the
14 map entitled “Arctic National Wildlife Refuge”,
15 dated August 1980, as referenced in section 1002(b)
16 of the Alaska National Interest Lands Conservation
17 Act of 1980 (16 U.S.C. 3142(b)(1)), comprising ap-
18 proximately 1,549,000 acres, and as described in ap-



1 pendix I to part 37 of title 50, Code of Federal Reg-
2 ulations.

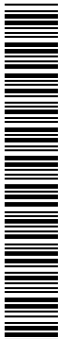
3 (2) SECRETARY.—The term “Secretary”, except
4 as otherwise provided, means the Secretary of the
5 Interior or the Secretary’s designee.

6 **SEC. 103. LEASING PROGRAM FOR LANDS WITHIN THE**
7 **COASTAL PLAIN.**

8 (a) IN GENERAL.—The Secretary shall take such ac-
9 tions as are necessary—

10 (1) to establish and implement in accordance
11 with this Act a competitive oil and gas leasing pro-
12 gram under the Mineral Leasing Act (30 U.S.C. 181
13 et seq.) that will result in an environmentally sound
14 program for the exploration, development, and pro-
15 duction of the oil and gas resources of the Coastal
16 Plain; and

17 (2) to administer the provisions of this title
18 through regulations, lease terms, conditions, restric-
19 tions, prohibitions, stipulations, and other provisions
20 that ensure the oil and gas exploration, development,
21 and production activities on the Coastal Plain will
22 result in no significant adverse effect on fish and
23 wildlife, their habitat, subsistence resources, and the
24 environment, and including, in furtherance of this
25 goal, by requiring the application of the best com-



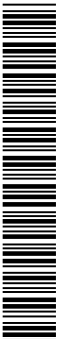
1 mercially available technology for oil and gas explo-
2 ration, development, and production to all explo-
3 ration, development, and production operations
4 under this title in a manner that ensures the receipt
5 of fair market value by the public for the mineral re-
6 sources to be leased.

7 (b) REPEAL.—Section 1003 of the Alaska National
8 Interest Lands Conservation Act of 1980 (16 U.S.C.
9 3143) is repealed.

10 (c) COMPLIANCE WITH REQUIREMENTS UNDER CER-
11 TAIN OTHER LAWS.—

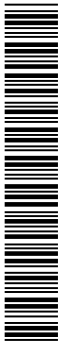
12 (1) COMPATIBILITY.—For purposes of the Na-
13 tional Wildlife Refuge System Administration Act of
14 1966, the oil and gas leasing program and activities
15 authorized by this section in the Coastal Plain are
16 deemed to be compatible with the purposes for which
17 the Arctic National Wildlife Refuge was established,
18 and that no further findings or decisions are re-
19 quired to implement this determination.

20 (2) ADEQUACY OF THE DEPARTMENT OF THE
21 INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT
22 STATEMENT.—The “Final Legislative Environ-
23 mental Impact Statement” (April 1987) on the
24 Coastal Plain prepared pursuant to section 1002 of
25 the Alaska National Interest Lands Conservation



1 Act of 1980 (16 U.S.C. 3142) and section 102(2)(C)
2 of the National Environmental Policy Act of 1969
3 (42 U.S.C. 4332(2)(C)) is deemed to satisfy the re-
4 quirements under the National Environmental Policy
5 Act of 1969 that apply with respect to actions au-
6 thorized to be taken by the Secretary to develop and
7 promulgate the regulations for the establishment of
8 a leasing program authorized by this title before the
9 conduct of the first lease sale.

10 (3) COMPLIANCE WITH NEPA FOR OTHER AC-
11 TIONS.—Before conducting the first lease sale under
12 this title, the Secretary shall prepare an environ-
13 mental impact statement under the National Envi-
14 ronmental Policy Act of 1969 with respect to the ac-
15 tions authorized by this title that are not referred to
16 in paragraph (2). Notwithstanding any other law,
17 the Secretary is not required to identify nonleasing
18 alternative courses of action or to analyze the envi-
19 ronmental effects of such courses of action. The Sec-
20 retary shall only identify a preferred action for such
21 leasing and a single leasing alternative, and analyze
22 the environmental effects and potential mitigation
23 measures for those two alternatives. The identifica-
24 tion of the preferred action and related analysis for
25 the first lease sale under this title shall be completed

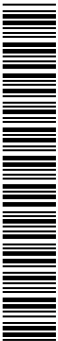


1 within 18 months after the date of the enactment of
2 this Act. The Secretary shall only consider public
3 comments that specifically address the Secretary's
4 preferred action and that are filed within 20 days
5 after publication of an environmental analysis. Not-
6 withstanding any other law, compliance with this
7 paragraph is deemed to satisfy all requirements for
8 the analysis and consideration of the environmental
9 effects of proposed leasing under this title.

10 (d) RELATIONSHIP TO STATE AND LOCAL AUTHOR-
11 ITY.—Nothing in this title shall be considered to expand
12 or limit State and local regulatory authority.

13 (e) SPECIAL AREAS.—

14 (1) IN GENERAL.—The Secretary, after con-
15 sultation with the State of Alaska, the city of
16 Kaktovik, and the North Slope Borough, may des-
17 ignate up to a total of 45,000 acres of the Coastal
18 Plain as a Special Area if the Secretary determines
19 that the Special Area is of such unique character
20 and interest so as to require special management
21 and regulatory protection. The Secretary shall des-
22 ignate as such a Special Area the Sadlerochit Spring
23 area, comprising approximately 4,000 acres as de-
24 picted on the map referred to in section 102(1).



1 (2) MANAGEMENT.—Each such Special Area
2 shall be managed so as to protect and preserve the
3 area's unique and diverse character including its
4 fish, wildlife, and subsistence resource values.

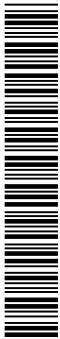
5 (3) EXCLUSION FROM LEASING OR SURFACE
6 OCCUPANCY.—The Secretary may exclude any Spe-
7 cial Area from leasing. If the Secretary leases a Spe-
8 cial Area, or any part thereof, for purposes of oil
9 and gas exploration, development, production, and
10 related activities, there shall be no surface occu-
11 pancy of the lands comprising the Special Area.

12 (4) DIRECTIONAL DRILLING.—Notwithstanding
13 the other provisions of this subsection, the Secretary
14 may lease all or a portion of a Special Area under
15 terms that permit the use of horizontal drilling tech-
16 nology from sites on leases located outside the area.

17 (f) LIMITATION ON CLOSED AREAS.—The Sec-
18 retary's sole authority to close lands within the Coastal
19 Plain to oil and gas leasing and to exploration, develop-
20 ment, and production is that set forth in this title.

21 (g) REGULATIONS.—

22 (1) IN GENERAL.—The Secretary shall pre-
23 scribe such regulations as may be necessary to carry
24 out this title, including rules and regulations relating
25 to protection of the fish and wildlife, their habitat,



1 subsistence resources, and environment of the Coast-
2 al Plain, by no later than 15 months after the date
3 of the enactment of this Act.

4 (2) REVISION OF REGULATIONS.—The Sec-
5 retary shall periodically review and, if appropriate,
6 revise the rules and regulations issued under sub-
7 section (a) to reflect any significant biological, envi-
8 ronmental, or engineering data that come to the Sec-
9 retary's attention.

10 **SEC. 104. LEASE SALES.**

11 (a) IN GENERAL.—Lands may be leased pursuant to
12 this title to any person qualified to obtain a lease for de-
13 posits of oil and gas under the Mineral Leasing Act (30
14 U.S.C. 181 et seq.).

15 (b) PROCEDURES.—The Secretary shall, by regula-
16 tion, establish procedures for—

17 (1) receipt and consideration of sealed nomina-
18 tions for any area in the Coastal Plain for inclusion
19 in, or exclusion (as provided in subsection (c)) from,
20 a lease sale;

21 (2) the holding of lease sales after such nomina-
22 tion process; and

23 (3) public notice of and comment on designa-
24 tion of areas to be included in, or excluded from, a
25 lease sale.



1 (c) LEASE SALE BIDS.—Bidding for leases under
2 this title shall be by sealed competitive cash bonus bids.

3 (d) ACREAGE MINIMUM IN FIRST SALE.—In the first
4 lease sale under this title, the Secretary shall offer for
5 lease those tracts the Secretary considers to have the
6 greatest potential for the discovery of hydrocarbons, tak-
7 ing into consideration nominations received pursuant to
8 subsection (b)(1), but in no case less than 200,000 acres.

9 (e) TIMING OF LEASE SALES.—The Secretary
10 shall—

11 (1) conduct the first lease sale under this title
12 within 22 months after the date of the enactment of
13 this Act; and

14 (2) conduct additional sales so long as sufficient
15 interest in development exists to warrant, in the Sec-
16 retary's judgment, the conduct of such sales.

17 **SEC. 105. GRANT OF LEASES BY THE SECRETARY.**

18 (a) IN GENERAL.—The Secretary may grant to the
19 highest responsible qualified bidder in a lease sale con-
20 ducted pursuant to section 104 any lands to be leased on
21 the Coastal Plain upon payment by the lessee of such
22 bonus as may be accepted by the Secretary.

23 (b) SUBSEQUENT TRANSFERS.—No lease issued
24 under this title may be sold, exchanged, assigned, sublet,
25 or otherwise transferred except with the approval of the



1 Secretary. Prior to any such approval the Secretary shall
2 consult with, and give due consideration to the views of,
3 the Attorney General.

4 **SEC. 106. LEASE TERMS AND CONDITIONS.**

5 (a) IN GENERAL.—An oil or gas lease issued pursu-
6 ant to this title shall—

7 (1) provide for the payment of a royalty of not
8 less than 12½ percent in amount or value of the
9 production removed or sold from the lease, as deter-
10 mined by the Secretary under the regulations appli-
11 cable to other Federal oil and gas leases;

12 (2) provide that the Secretary may close, on a
13 seasonal basis, portions of the Coastal Plain to ex-
14 ploratory drilling activities as necessary to protect
15 caribou calving areas and other species of fish and
16 wildlife;

17 (3) require that the lessee of lands within the
18 Coastal Plain shall be fully responsible and liable for
19 the reclamation of lands within the Coastal Plain
20 and any other Federal lands that are adversely af-
21 fected in connection with exploration, development,
22 production, or transportation activities conducted
23 under the lease and within the Coastal Plain by the
24 lessee or by any of the subcontractors or agents of
25 the lessee;

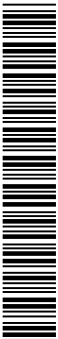


1 (4) provide that the lessee may not delegate or
2 convey, by contract or otherwise, the reclamation re-
3 sponsibility and liability to another person without
4 the express written approval of the Secretary;

5 (5) provide that the standard of reclamation for
6 lands required to be reclaimed under this title shall
7 be, as nearly as practicable, a condition capable of
8 supporting the uses which the lands were capable of
9 supporting prior to any exploration, development, or
10 production activities, or upon application by the les-
11 see, to a higher or better use as approved by the
12 Secretary;

13 (6) contain terms and conditions relating to
14 protection of fish and wildlife, their habitat, and the
15 environment as required pursuant to section
16 103(a)(2);

17 (7) provide that the lessee, its agents, and its
18 contractors use best efforts to provide a fair share,
19 as determined by the level of obligation previously
20 agreed to in the 1974 agreement implementing sec-
21 tion 29 of the Federal Agreement and Grant of
22 Right of Way for the Operation of the Trans-Alaska
23 Pipeline, of employment and contracting for Alaska
24 Natives and Alaska Native Corporations from
25 throughout the State;



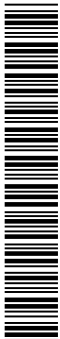
1 (8) prohibit the export of oil produced under
2 the lease; and

3 (9) contain such other provisions as the Sec-
4 retary determines necessary to ensure compliance
5 with the provisions of this title and the regulations
6 issued under this title.

7 (b) PROJECT LABOR AGREEMENTS.—The Secretary,
8 as a term and condition of each lease under this title and
9 in recognizing the Government's proprietary interest in
10 labor stability and in the ability of construction labor and
11 management to meet the particular needs and conditions
12 of projects to be developed under the leases issued pursu-
13 ant to this title and the special concerns of the parties
14 to such leases, shall require that the lessee and its agents
15 and contractors negotiate to obtain a project labor agree-
16 ment for the employment of laborers and mechanics on
17 production, maintenance, and construction under the
18 lease.

19 **SEC. 107. COASTAL PLAIN ENVIRONMENTAL PROTECTION.**

20 (a) NO SIGNIFICANT ADVERSE EFFECT STANDARD
21 TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—
22 The Secretary shall, consistent with the requirements of
23 section 103, administer the provisions of this title through
24 regulations, lease terms, conditions, restrictions, prohibi-
25 tions, stipulations, and other provisions that—



1 (1) ensure the oil and gas exploration, develop-
2 ment, and production activities on the Coastal Plain
3 will result in no significant adverse effect on fish
4 and wildlife, their habitat, and the environment;

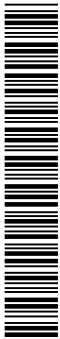
5 (2) require the application of the best commer-
6 cially available technology for oil and gas explo-
7 ration, development, and production on all new ex-
8 ploration, development, and production operations;
9 and

10 (3) ensure that the maximum amount of sur-
11 face acreage covered by production and support fa-
12 cilities, including airstrips and any areas covered by
13 gravel berms or piers for support of pipelines, does
14 not exceed 2,000 acres on the Coastal Plain.

15 (b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—
16 The Secretary shall also require, with respect to any pro-
17 posed drilling and related activities, that—

18 (1) a site-specific analysis be made of the prob-
19 able effects, if any, that the drilling or related activi-
20 ties will have on fish and wildlife, their habitat, and
21 the environment;

22 (2) a plan be implemented to avoid, minimize,
23 and mitigate (in that order and to the extent prac-
24 ticable) any significant adverse effect identified
25 under paragraph (1); and

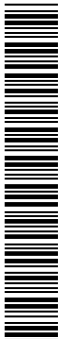


1 (3) the development of the plan shall occur
2 after consultation with the agency or agencies hav-
3 ing jurisdiction over matters mitigated by the plan.

4 (c) REGULATIONS TO PROTECT COASTAL PLAIN
5 FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS,
6 AND THE ENVIRONMENT.—Before implementing the leas-
7 ing program authorized by this title, the Secretary shall
8 prepare and promulgate regulations, lease terms, condi-
9 tions, restrictions, prohibitions, stipulations, and other
10 measures designed to ensure that the activities undertaken
11 on the Coastal Plain under this title are conducted in a
12 manner consistent with the purposes and environmental
13 requirements of this title.

14 (d) COMPLIANCE WITH FEDERAL AND STATE ENVI-
15 RONMENTAL LAWS AND OTHER REQUIREMENTS.—The
16 proposed regulations, lease terms, conditions, restrictions,
17 prohibitions, and stipulations for the leasing program
18 under this title shall require compliance with all applicable
19 provisions of Federal and State environmental law and
20 shall also require the following:

21 (1) Standards at least as effective as the safety
22 and environmental mitigation measures set forth in
23 items 1 through 29 at pages 167 through 169 of the
24 “Final Legislative Environmental Impact State-
25 ment” (April 1987) on the Coastal Plain.



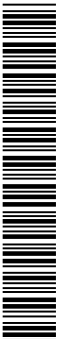
1 (2) Seasonal limitations on exploration, develop-
2 ment, and related activities, where necessary, to
3 avoid significant adverse effects during periods of
4 concentrated fish and wildlife breeding, denning,
5 nesting, spawning, and migration.

6 (3) That exploration activities, except for sur-
7 face geological studies, be limited to the period be-
8 tween approximately November 1 and May 1 each
9 year and that exploration activities shall be sup-
10 ported by ice roads, winter trails with adequate snow
11 cover, ice pads, ice airstrips, and air transport meth-
12 ods, except that such exploration activities may
13 occur at other times, if the Secretary finds that such
14 exploration will have no significant adverse effect on
15 the fish and wildlife, their habitat, and the environ-
16 ment of the Coastal Plain.

17 (4) Design safety and construction standards
18 for all pipelines and any access and service roads,
19 that—

20 (A) minimize, to the maximum extent pos-
21 sible, adverse effects upon the passage of mi-
22 gratory species such as caribou; and

23 (B) minimize adverse effects upon the flow
24 of surface water by requiring the use of cul-
25 verts, bridges, and other structural devices.



1 (5) Prohibitions on public access and use on all
2 pipeline access and service roads.

3 (6) Stringent reclamation and rehabilitation re-
4 quirements, consistent with the standards set forth
5 in this title, requiring the removal from the Coastal
6 Plain of all oil and gas development and production
7 facilities, structures, and equipment upon completion
8 of oil and gas production operations, except that the
9 Secretary may exempt from the requirements of this
10 paragraph those facilities, structures, or equipment
11 that the Secretary determines would assist in the
12 management of the Arctic National Wildlife Refuge
13 and that are donated to the United States for that
14 purpose.

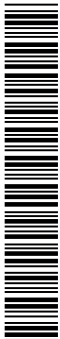
15 (7) Appropriate prohibitions or restrictions on
16 access by all modes of transportation.

17 (8) Appropriate prohibitions or restrictions on
18 sand and gravel extraction.

19 (9) Consolidation of facility siting.

20 (10) Appropriate prohibitions or restrictions on
21 use of explosives.

22 (11) Avoidance, to the extent practicable, of
23 springs, streams, and river system; the protection of
24 natural surface drainage patterns, wetlands, and ri-
25 parian habitats; and the regulation of methods or



1 techniques for developing or transporting adequate
2 supplies of water for exploratory drilling.

3 (12) Avoidance or reduction of air traffic-re-
4 lated disturbance to fish and wildlife.

5 (13) Treatment and disposal of hazardous and
6 toxic wastes, solid wastes, reserve pit fluids, drilling
7 muds and cuttings, and domestic wastewater, includ-
8 ing an annual waste management report, a haz-
9 ardous materials tracking system, and a prohibition
10 on chlorinated solvents, in accordance with applica-
11 ble Federal and State environmental law.

12 (14) Fuel storage and oil spill contingency plan-
13 ning.

14 (15) Research, monitoring, and reporting re-
15 quirements.

16 (16) Field crew environmental briefings.

17 (17) Avoidance of significant adverse effects
18 upon subsistence hunting, fishing, and trapping by
19 subsistence users.

20 (18) Compliance with applicable air and water
21 quality standards.

22 (19) Appropriate seasonal and safety zone des-
23 ignations around well sites, within which subsistence
24 hunting and trapping shall be limited.



1 (20) Reasonable stipulations for protection of
2 cultural and archeological resources.

3 (21) All other protective environmental stipula-
4 tions, restrictions, terms, and conditions deemed
5 necessary by the Secretary.

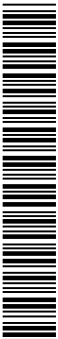
6 (e) CONSIDERATIONS.—In preparing and promul-
7 gating regulations, lease terms, conditions, restrictions,
8 prohibitions, and stipulations under this section, the Sec-
9 retary shall consider the following:

10 (1) The stipulations and conditions that govern
11 the National Petroleum Reserve-Alaska leasing pro-
12 gram, as set forth in the 1999 Northeast National
13 Petroleum Reserve-Alaska Final Integrated Activity
14 Plan/Environmental Impact Statement.

15 (2) The environmental protection standards
16 that governed the initial Coastal Plain seismic explo-
17 ration program under parts 37.31 to 37.33 of title
18 50, Code of Federal Regulations.

19 (3) The land use stipulations for exploratory
20 drilling on the KIC–ASRC private lands that are set
21 forth in Appendix 2 of the August 9, 1983, agree-
22 ment between Arctic Slope Regional Corporation and
23 the United States.

24 (f) FACILITY CONSOLIDATION PLANNING.—



1 (1) IN GENERAL.—The Secretary shall, after
2 providing for public notice and comment, prepare
3 and update periodically a plan to govern, guide, and
4 direct the siting and construction of facilities for the
5 exploration, development, production, and transpor-
6 tation of Coastal Plain oil and gas resources.

7 (2) OBJECTIVES.—The plan shall have the fol-
8 lowing objectives:

9 (A) Avoiding unnecessary duplication of fa-
10 cilities and activities.

11 (B) Encouraging consolidation of common
12 facilities and activities.

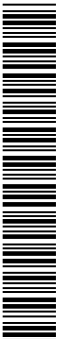
13 (C) Locating or confining facilities and ac-
14 tivities to areas that will minimize impact on
15 fish and wildlife, their habitat, and the environ-
16 ment.

17 (D) Utilizing existing facilities wherever
18 practicable.

19 (E) Enhancing compatibility between wild-
20 life values and development activities.

21 (g) ACCESS TO PUBLIC LANDS.—The Secretary
22 shall—

23 (1) manage public lands in the Coastal Plain
24 subject to subsections (a) and (b) of section 811 of



1 the Alaska National Interest Lands Conservation
2 Act (16 U.S.C. 3121); and

3 (2) ensure that local residents shall have rea-
4 sonable access to public lands in the Coastal Plain
5 for traditional uses.

6 **SEC. 108. EXPEDITED JUDICIAL REVIEW.**

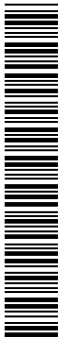
7 (a) FILING OF COMPLAINT.—

8 (1) DEADLINE.—Subject to paragraph (2), any
9 complaint seeking judicial review of any provision of
10 this title or any action of the Secretary under this
11 title shall be filed in any appropriate district court
12 of the United States—

13 (A) except as provided in subparagraph
14 (B), within the 90-day period beginning on the
15 date of the action being challenged; or

16 (B) in the case of a complaint based solely
17 on grounds arising after such period, within 90
18 days after the complainant knew or reasonably
19 should have known of the grounds for the com-
20 plaint.

21 (2) VENUE.—Any complaint seeking judicial re-
22 view of an action of the Secretary under this title
23 may be filed only in the United States Court of Ap-
24 peals for the District of Columbia.



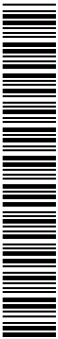
(3) LIMITATION ON SCOPE OF CERTAIN REVIEW.—Judicial review of a Secretarial decision to conduct a lease sale under this title, including the environmental analysis thereof, shall be limited to whether the Secretary has complied with the terms of this title and shall be based upon the administrative record of that decision. The Secretary's identification of a preferred course of action to enable leasing to proceed and the Secretary's analysis of environmental effects under this title shall be presumed to be correct unless shown otherwise by clear and convincing evidence to the contrary.

(b) LIMITATION ON OTHER REVIEW.—Actions of the Secretary with respect to which review could have been obtained under this section shall not be subject to judicial review in any civil or criminal proceeding for enforcement.

17 SEC. 109. FEDERAL AND STATE DISTRIBUTION OF REVE-
18 NUES.

(a) IN GENERAL.—Notwithstanding any other provision of law, of the amount of adjusted bonus, rental, and royalty revenues from oil and gas leasing and operations authorized under this title—

23 (1) 50 percent shall be paid to the State of
24 Alaska; and



1 (2) except as provided in section 112(d) and
2 title II, the balance shall be deposited into the
3 Treasury as miscellaneous receipts.

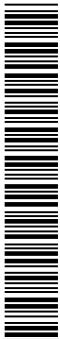
4 (b) PAYMENTS TO ALASKA.—Payments to the State
5 of Alaska under this section shall be made semiannually.

6 **SEC. 110. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.**

7 (a) EXEMPTION.—Title XI of the Alaska National In-
8 terest Lands Conservation Act of 1980 (16 U.S.C. 3161
9 et seq.) shall not apply to the issuance by the Secretary
10 under section 28 of the Mineral Leasing Act (30 U.S.C.
11 185) of rights-of-way and easements across the Coastal
12 Plain for the transportation of oil and gas.

13 (b) TERMS AND CONDITIONS.—The Secretary shall
14 include in any right-of-way or easement referred to in sub-
15 section (a) such terms and conditions as may be necessary
16 to ensure that transportation of oil and gas does not result
17 in a significant adverse effect on the fish and wildlife, sub-
18 sistence resources, their habitat, and the environment of
19 the Coastal Plain, including requirements that facilities be
20 sited or designed so as to avoid unnecessary duplication
21 of roads and pipelines.

22 (c) REGULATIONS.—The Secretary shall include in
23 regulations under section 103(g) provisions granting
24 rights-of-way and easements described in subsection (a)
25 of this section.



1 **SEC. 111. CONVEYANCE.**

2 In order to maximize Federal revenues by removing
3 clouds on title to lands and clarifying land ownership pat-
4 terns within the Coastal Plain, the Secretary, notwith-
5 standing the provisions of section 1302(h)(2) of the Alas-
6 ka National Interest Lands Conservation Act (16 U.S.C.
7 3192(h)(2)), shall convey—

8 (1) to the Kaktovik Inupiat Corporation the
9 surface estate of the lands described in paragraph 1
10 of Public Land Order 6959, to the extent necessary
11 to fulfill the Corporation's entitlement under section
12 12 of the Alaska Native Claims Settlement Act (43
13 U.S.C. 1611) in accordance with the terms and con-
14 ditions of the Agreement between the Department of
15 the Interior, the United States Fish and Wildlife
16 Service, the Bureau of Land Management, and the
17 Kaktovik Inupiat Corporation effective January 22,
18 1993; and

19 (2) to the Arctic Slope Regional Corporation
20 the remaining subsurface estate to which it is enti-
21 tled pursuant to the August 9, 1983, agreement be-
22 tween the Arctic Slope Regional Corporation and the
23 United States of America.

24 **SEC. 112. LOCAL GOVERNMENT IMPACT AID AND COMMU-**
25 **NITY SERVICE ASSISTANCE.**

26 (a) FINANCIAL ASSISTANCE AUTHORIZED.—



1 (1) IN GENERAL.—The Secretary may use
2 amounts available from the Coastal Plain Local Gov-
3 ernment Impact Aid Assistance Fund established by
4 subsection (d) to provide timely financial assistance
5 to entities that are eligible under paragraph (2) and
6 that are directly impacted by the exploration for or
7 production of oil and gas on the Coastal Plain under
8 this title.

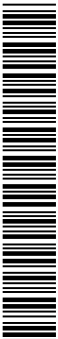
9 (2) ELIGIBLE ENTITIES.—The North Slope
10 Borough, Kaktovik, and other boroughs, municipal
11 subdivisions, villages, and any other community or-
12 ganized under Alaska State law shall be eligible for
13 financial assistance under this section.

14 (b) USE OF ASSISTANCE.—Financial assistance
15 under this section may be used only for—

16 (1) planning for mitigation of the potential ef-
17 fects of oil and gas exploration and development on
18 environmental, social, cultural, recreational and sub-
19 sistence values;

20 (2) implementing mitigation plans and main-
21 taining mitigation projects;

22 (3) developing, carrying out, and maintaining
23 projects and programs that provide new or expanded
24 public facilities and services to address needs and
25 problems associated with such effects, including fire-



1 fighting, police, water, waste treatment, medivac,
2 and medical services; and

3 (4) establishment of a coordination office, by
4 the North Slope Borough, in the City of Kaktovik,
5 which shall—

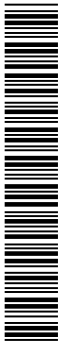
6 (A) coordinate with and advise developers
7 on local conditions, impact, and history of the
8 areas utilized for development; and

9 (B) provide to the Committee on Resources
10 of the Senate and the Committee on Energy
11 and Resources of the Senate an annual report
12 on the status of coordination between devel-
13 opers and the communities affected by develop-
14 ment.

15 (c) APPLICATION.—

16 (1) IN GENERAL.—Any community that is eligi-
17 ble for assistance under this section may submit an
18 application for such assistance to the Secretary, in
19 such form and under such procedures as the Sec-
20 retary may prescribe by regulation.

21 (2) NORTH SLOPE BOROUGH COMMUNITIES.—A
22 community located in the North Slope Borough may
23 apply for assistance under this section either directly
24 to the Secretary or through the North Slope Bor-
25 ough.



1 (3) APPLICATION ASSISTANCE.—The Secretary
2 shall work closely with and assist the North Slope
3 Borough and other communities eligible for assist-
4 ance under this section in developing and submitting
5 applications for assistance under this section.

6 (d) ESTABLISHMENT OF FUND.—

7 (1) IN GENERAL.—There is established in the
8 Treasury the Coastal Plain Local Government Im-
9 pact Aid Assistance Fund.

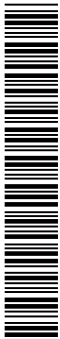
10 (2) USE.—Amounts in the fund may be used
11 only for providing financial assistance under this
12 section.

13 (3) DEPOSITS.—Subject to paragraph (4), there
14 shall be deposited into the fund amounts received by
15 the United States as revenues derived from rents,
16 bonuses, and royalties under on leases and lease
17 sales authorized under this title.

18 (4) LIMITATION ON DEPOSITS.—The total
19 amount in the fund may not exceed \$11,000,000.

20 (5) INVESTMENT OF BALANCES.—The Sec-
21 retary of the Treasury shall invest amounts in the
22 fund in interest bearing government securities.

23 (e) AUTHORIZATION OF APPROPRIATIONS.—To pro-
24 vide financial assistance under this section there is author-
25 ized to be appropriated to the Secretary from the Coastal



1 Plain Local Government Impact Aid Assistance Fund
2 \$5,000,000 for each fiscal year.

3 **TITLE II—ABANDONED MINE**
4 **LANDS RECLAMATION REFORM**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “Abandoned Mine
7 Lands Reclamation Reform Act of 2004”.

8 **SEC. 202. AMENDMENTS TO SURFACE MINING ACT.**

9 (a) AMENDMENTS TO SECTION —(1) SECTION 401
10 OF THE SURFACE MINING CONTROL AND RECLAMATION
11 ACT OF 1977 (30 U.S.C. 1231) IS AMENDED AS FOLLOWS:

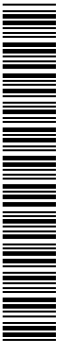
12 (A) In subsection (c) by striking paragraphs (2)
13 and (6) and redesignating paragraphs (3) through
14 (13) in order as paragraphs (2) through (11).

15 (B) In subsection (e)—

16 (i) in the second sentence, by striking “the
17 needs of such fund” and inserting “achieving
18 the purposes of the payments under section
19 402(h)”; and

20 (ii) in the third sentence, by inserting be-
21 fore the period the following: “for the purpose
22 of the payments under section 402(h)”.

23 (2) Section 712(b) of the Surface Mining Con-
24 trol and Reclamation Act of 1977 (30 U.S.C.



1 1302(b)) is amended by striking “section
2 401(c)(11)” and inserting “section 401(c)(9)”.

3 (b) AMENDMENTS TO SECTION 402.—Section 402 of
4 the Surface Mining Control and Reclamation Act of 1977
5 (30 U.S.C. 1232) is amended as follows:

6 (1) In subsection (a)—

7 (A) by striking “35” and inserting “28”;

8 (B) by striking “15” and inserting “12”;

9 and

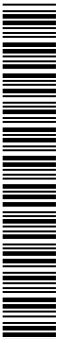
10 (C) by striking “10 cents” and inserting
11 “8 cents”.

12 (2) In subsection (b) by striking “2004” and all
13 that follows through the end of the sentence and in-
14 serting “2019.”.

15 (3) In subsection (g)(1)(D) by striking “in any
16 area under paragraph (2), (3), (4), or (5)” and in-
17 serting “under paragraph (5)”.

18 (4) Subsection (g)(2) is amended to read as fol-
19 lows:

20 “(2) In making the grants referred to in para-
21 graph (1)(C) and the grants referred to in para-
22 graph (5), the Secretary shall ensure strict compli-
23 ance by the States and Indian tribes with the prior-
24 ities set forth in section 403(a) until a certification
25 is made under section 411(a).”.



1 (5) In subsection (g)(3)—

2 (A) in the matter preceding subparagraph

3 (A) by striking “paragraphs (2) and” and in-

4 serting “paragraph”;

5 (B) in subparagraph (A) by striking

6 “401(c)(11)” and inserting “401(c)(9)”; and

7 (C) by adding at the end the following:

8 “(E) For the purpose of paragraph (8).”.

9 (6) In subsection (g)(5)—

10 (A) by inserting “(A)” before the first sen-

11 tence;

12 (B) in the first sentence by striking “40”

13 and inserting “60”;

14 (C) in the last sentence by striking “Funds

15 allocated or expended by the Secretary under

16 paragraphs (2), (3), or (4),” and inserting

17 “Funds made available under paragraph (3) or

18 (4)”; and

19 (D) by adding at the end the following:

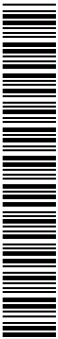
20 “(B) Any amount that is reallocated and available

21 under section 411(h)(3) shall be in addition to amounts

22 that are allocated under subparagraph (A).”.

23 (7) Subsection (g)(6) is amended to read as fol-

24 lows:



1 “(6)(A) Any State with an approved abandoned mine
2 reclamation program pursuant to section 405 may receive
3 and retain, without regard to the 3-year limitation re-
4 ferred to in paragraph (1)(D), up to 10 percent of the
5 total of the grants made annually to such State under
6 paragraphs (1) and (5) if such amounts are deposited into
7 an acid mine drainage abatement and treatment fund es-
8 tablished under State law, from which amounts (together
9 with all interest earned on such amounts) are expended
10 by the State for the abatement of the causes and the treat-
11 ment of the effects of acid mine drainage in a comprehen-
12 sive manner within qualified hydrologic units affected by
13 coal mining practices.

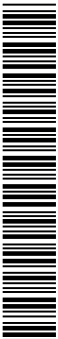
14 “(B) For the purposes of this paragraph, the term
15 ‘qualified hydrologic unit’ means a hydrologic unit—

16 “(i) in which the water quality has been signifi-
17 cantly affected by acid mine drainage from coal min-
18 ing practices in a manner that adversely impacts bi-
19 ological resources; and

20 “(ii) that contains lands and waters that are—

21 “(I) eligible pursuant to section 404 and
22 include any of the priorities set forth in section
23 403(a); and

24 “(II) the subject of expenditures by the
25 State from the forfeiture of bonds required



1 under section 509 or from other States sources
2 to abate and treat acid mine drainage.”.

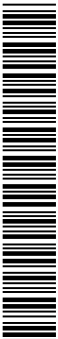
3 (8) Subsection (g)(7) is amended to read as fol-
4 lows:

5 “(7) In complying with the priorities set forth in sec-
6 tion 403(a), any State or Indian tribe may use amounts
7 available in grants made annually to such State or tribe
8 under paragraphs (1) and (5) for the reclamation of eligi-
9 ble lands and waters set forth in section 403(a)(3) prior
10 to the completion of reclamation projects under para-
11 graphs (1) and (2) of section 403(a) only if the expendi-
12 ture of funds for such reclamation is done in conjunction
13 with the expenditure of funds for reclamation projects
14 under paragraphs (1) and (2) of section 403(a).”.

15 (9) Subsection (g)(8) is amended to read as fol-
16 lows:

17 “(8) In making the grants referred to in paragraph
18 (1)(C), the Secretary, using amounts allocated to a State
19 or Indian tribe under subparagraphs (A) or (B) of para-
20 graph (1) or as necessary amounts available to the Sec-
21 retary under paragraph (3), shall assure total grant
22 awards of not less than \$2,000,000 annually to each
23 State, including Tennessee, and each Indian tribe.”.

24 (10) By amending subsection (h) to read as fol-
25 lows:



1 “(h) PAYMENT OF FUNDS FOR BENEFIT PAY-
2 MENTS.—

3 “(1) IN GENERAL.—Except as otherwise pro-
4 vided in this subsection, at the beginning of each fis-
5 cal year, the Secretary of the Interior shall pay from
6 the fund—

7 “(A) the amount described in paragraph
8 (3) for such year to the Combined Fund,

9 “(B) the amount described in paragraph
10 (4) for such year to the 1992 Plan, and

11 “(C) the amount described in paragraph
12 (5) for such year to the 1993 Plan.

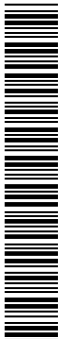
13 “(2) PAYMENTS MAY NOT EXCEED AGGREGATE
14 INTEREST RECEIVED BY FUND.—The aggregate
15 amount paid under paragraph (1) for any fiscal year
16 shall not exceed the lesser of—

17 “(A) the excess of—

18 “(i) the aggregate interest received by
19 the fund during all preceding fiscal years,
20 over

21 “(ii) the aggregate payments made
22 under paragraph (1) for all preceding fis-
23 cal years, or

24 “(B) the unobligated balance of the fund
25 as of the close of the preceding fiscal year.



1 “(3) PAYMENTS TO COMBINED FUND.—

2 “(A) IN GENERAL.—The amount described
3 in this paragraph for any fiscal year is an
4 amount equal to the sum of—

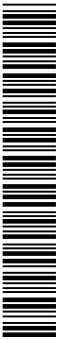
5 “(i) the estimated expenditures to be
6 debited against the unassigned bene-
7 ficiaries premium account under section
8 9704(e) of the Internal Revenue Code of
9 1986 for such fiscal year, plus

10 “(ii) the estimated amount needed to
11 offset the amount of any deficit (as of the
12 close of the preceding fiscal year) in net
13 assets in the Combined Fund.

14 “(B) CERTAIN PRE-2001 PREMIUMS.—

15 “(i) IN GENERAL.—The amount de-
16 scribed in this paragraph (without regard
17 to this subparagraph) for fiscal year 2004
18 shall be increased by \$36,000,000.

19 “(ii) REFUNDS.—Not later than Jan-
20 uary 31, 2005, the trustees of the Com-
21 bined Fund shall pay to each coal industry
22 operator described in clause (iii) (and to
23 each related person with respect to such an
24 operator) an amount equal to the aggre-
25 gate amount paid by such operator (or



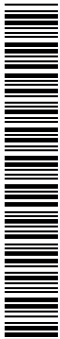
1 such related person) to the Combined
2 Fund on or before September 7, 2000, and
3 not previously refunded or credited, plus
4 interest on such amount calculated at the
5 rate of 7.5 percent per year. The aggregate
6 amount paid under this subparagraph shall
7 not exceed \$36,000,000.

8 “(iii) COAL INDUSTRY OPERATOR DE-
9 SCRIBED.—A coal industry operator is de-
10 scribed in this clause if—

11 “(I) the operator’s beneficiary as-
12 signments have been voided by the
13 Commissioner of the Social Security
14 Administration; and

15 “(II) the operator brought an ac-
16 tion prior to September 7, 2000,
17 claiming that the assignment of bene-
18 ficiaries under section 9706 of the In-
19 ternal Revenue Code of 1986 was un-
20 constitutional as applied to such oper-
21 ator and received a final judgment or
22 final settlement against such claim.

23 “(4) PAYMENTS TO 1992 PLAN.—The amount
24 described in this paragraph for any fiscal year is an
25 amount equal to the excess of—



1 “(A) the estimated expenditures from the
2 1992 Plan during such fiscal year to provide
3 benefits required under section 9712(c) of such
4 Code, over

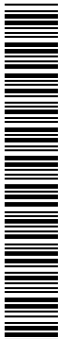
5 “(B) the estimated receipts of the 1992
6 Plan for such fiscal year from payments re-
7 quired under paragraphs (1)(B) and (3) of sec-
8 tion 9712(d) of such Code and from any secu-
9 rity provided to the 1992 Plan pursuant to sec-
10 tion 9712(d)(1)(C) of such Code that is avail-
11 able for use in the provision of benefits.

12 “(5) PAYMENTS TO 1993 PLAN.—

13 “(A) IN GENERAL.—The amount described
14 in this paragraph for any fiscal year is an
15 amount equal to the excess of—

16 “(i) the estimated expenditures from
17 the 1993 Plan during such fiscal year to
18 continue to provide benefits at levels no
19 greater than those in effect on the date of
20 enactment of this paragraph, under the eli-
21 gibility criteria in effect on the date of en-
22 actment of this paragraph, over

23 “(ii) the estimated income of the 1993
24 Plan for such fiscal year.



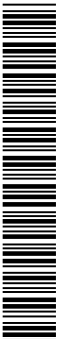
1 “(B) LIMITATION.—A payment shall not
2 be made under this paragraph for any fiscal
3 year unless the entities that are obligated as of
4 the beginning of such fiscal year to contribute
5 to the 1993 Plan remain obligated throughout
6 such year to make such contributions at rates
7 that are no less than those in effect on the date
8 of enactment of this paragraph.

9 “(6) REFUNDS OF 2004 PREMIUMS, ETC.—Not
10 later than December 1, 2004, the Secretary of the
11 Interior shall pay from the fund to each specified
12 person (as defined in section 415(d)(2)) an amount
13 equal to the amount of premiums or assigned oper-
14 ator contributions paid by such person for fiscal year
15 2004.

16 “(7) ORDERING RULES WHERE SPECIFIED PAY-
17 MENTS EXCEED LIMITATION.—

18 “(A) IN GENERAL.—Amounts shall be paid
19 under paragraphs (4), (5), or (6) for any fiscal
20 year only to the extent that the limitation under
21 paragraph (2) for such year exceeds the sum
22 of—

23 “(i) the estimated payments to be
24 made under paragraph (3) for such year,
25 and



1 “(ii) the estimated payments to be
2 made under paragraph (3) for the suc-
3 ceeding fiscal year.

4 “(B) PROPORTIONAL REDUCTION.—Pay-
5 ments under paragraphs (4), (5), and (6) shall
6 be proportionally reduced to the extent the full
7 amount of such payments may not be made by
8 reason of subparagraph (A).

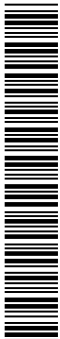
9 “(8) ESTIMATES AND ADJUSTMENTS.—

10 “(A) ESTIMATES.—Estimated amounts
11 with respect to any fund or plan shall be made
12 by the trustees thereof.

13 “(B) ADJUSTMENTS.—If, for any fiscal
14 year, the amount paid under paragraph (3),
15 (4), or (5) is more or less than the amount re-
16 quired to be paid, the Secretary of the Interior
17 shall appropriately adjust the amount paid
18 under that paragraph for the next fiscal year.

19 “(9) DEFINITIONS.—For purposes of this
20 subsection—

21 “(A) COMBINED FUND.—The term ‘Com-
22 bined Fund’ means the United Mine Workers of
23 America Combined Benefit Fund established
24 under section 9702 of the Internal Revenue
25 Code of 1986.



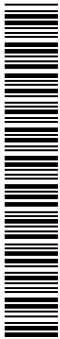
1 “(B) 1992 PLAN.—The term ‘1992 Plan’
2 means the United Mine Workers of America
3 1992 Benefit Plan established under section
4 9712 of such Code.

5 “(C) 1993 PLAN.—The term ‘1993 Plan’
6 means the multiemployer health benefit plan es-
7 tablished after July 20, 1992, by the persons
8 referred to in section 9701(b)(2) of such Code.

9 “(10) COORDINATION WITH PREMIUM RE-
10 LIEF.—

11 “(A) IN GENERAL.—Payments shall be
12 made under this subsection for any fiscal year
13 only if the Secretary reasonably expects that no
14 premium will be required to be paid during
15 such year under section 9704 of the Internal
16 Revenue Code of 1986 by reason of payments
17 under section 415(c)(3) of this Act.

18 “(B) RESTORATION OF PRIOR TRANSFER
19 RULES WHEN PREMIUM RELIEF CEASES.—If
20 fees are required to be paid under this section
21 with respect to any fiscal year for which pay-
22 ments may not be made under this subsection
23 by reason of subparagraph (A), the Secretary
24 shall, as of the beginning of such fiscal year
25 and before any allocation under subsection (g),



1 make the transfer provided in subparagraph
2 (C).

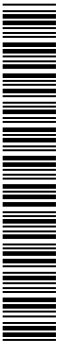
3 “(C) TRANSFER TO COMBINED FUND.—

4 The Secretary shall transfer from the fund to
5 the United Mine Workers of America Combined
6 Benefit Fund established under section 9702 of
7 the Internal Revenue Code of 1986 for any fis-
8 cal year an amount equal to the sum of—

9 “(i) the amount of the interest which
10 the Secretary estimates will be earned and
11 paid to the Fund during the fiscal year,
12 plus

13 “(ii) the amount by which the amount
14 described in clause (i) is less than
15 \$70,000,000.

16 “(D)(i) The aggregate amount which may
17 be transferred under subparagraph (C) for any
18 fiscal year shall not exceed the amount of ex-
19 penditures which the trustees of the Combined
20 Fund estimate will be debited against the unas-
21 signed beneficiaries premium account under
22 section 9704(e) of the Internal Revenue Code of
23 1986 for the fiscal year of the Combined Fund
24 in which the transfer is made.



1 “(ii) The aggregate amount which may be
2 transferred under subparagraph (C)(ii) for all
3 fiscal years shall not exceed an amount equiva-
4 lent to all interest earned and paid to the fund
5 after September 30, 1992, and before October
6 1, 1995.

7 “(E) If, for any fiscal year, the amount
8 transferred is more or less than the amount re-
9 quired to be transferred, the Secretary shall ap-
10 propriately adjust the amount transferred for
11 the next fiscal year.”

12 (c) AMENDMENTS TO SECTION 403.—Section 403 of
13 the Surface Mining Control and Reclamation Act of 1977
14 (30 U.S.C. 1233(a)) is amended as follows:

15 (1) In subsection (a)—

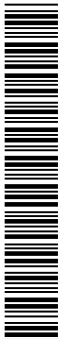
16 (A) in paragraph (1) by striking “general
17 welfare,”;

18 (B) in paragraph (2) by striking “health,
19 safety, and general welfare” and inserting
20 “health and safety”, and inserting “and” after
21 the semicolon at the end;

22 (C) in paragraph (3) by striking the semi-
23 colon at the end and inserting a period; and

24 (D) by striking paragraphs (4) and (5).

25 (2) In subsection (b)—



1 (A) by striking the heading and inserting
2 “Water Supply Restoration.—”; and

3 (B) in paragraph (1) by striking “up to 30
4 percent of the”.

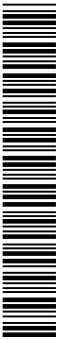
5 (3) In subsection (c) by inserting “, subject to
6 the approval of the Secretary,” after “amendments”.

7 (d) AMENDMENT TO SECTION 406.—Section 406(h)
8 of the Surface Mining Control and Reclamation Act of
9 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil
10 Conservation Service” and inserting “Natural Resources
11 Conservation Service”.

12 (e) FURTHER AMENDMENT TO SECTION 406.—Sec-
13 tion 406 of the Surface Mining Control and Reclamation
14 Act of 1977 (30 U.S.C. 1236) is amended by adding at
15 the end the following:

16 “(i) There is authorized to be appropriated to the
17 Secretary of Agriculture, from amounts in the Treasury
18 other than amounts in the fund, such sums as may be
19 necessary to carry out this section.”.

20 (f) AMENDMENT TO SECTION 408.—Section 408(a)
21 of the Surface Mining Control and Reclamation Act of
22 1977 (30 U.S.C. 1238) is amended by striking “who
23 owned the surface prior to May 2, 1977, and”.



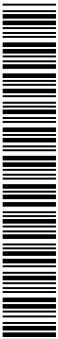
1 (g) AMENDMENTS TO SECTION 411.—Section 411 of
2 the Surface Mining Control and Reclamation Act of 1977
3 (30 U.S.C. 1240a) is amended as follows:

4 (1) In subsection (a) by inserting “(1)” before
5 the first sentence, and by adding at the end the fol-
6 lowing:

7 “(2) The Secretary may, on the Secretary’s own voli-
8 tion, make the certification referred to in paragraph (1)
9 on behalf of any State or Indian tribe referred to in para-
10 graph (1) if on the basis of the inventory referred to in
11 section 403(c) all reclamation projects relating to the pri-
12 orities set forth in section 403(a) for eligible lands and
13 water pursuant to section 404 in such State or tribe have
14 been completed. The Secretary shall only make such cer-
15 tification after notice in the Federal Register and oppor-
16 tunity for public comment.”.

17 (2) By adding at the end the following:

18 “(h) STATE SHARE FOR CERTAIN CERTIFIED
19 STATES.—(1)(A) From moneys referred to in subsection
20 (a) of section 35 of the Mineral Leasing Act (30 U.S.C.
21 191(a)) that are paid into the Treasury after the date of
22 the enactment of this subsection and that are not paid
23 to States under section 35 of the Mineral Leasing Act or
24 reserved as part of the reclamation fund under such sec-
25 tion, the Secretary of the Interior shall pay to each quali-



1 fied State, on a proportional basis, an amount equal to
2 the sum of the aggregate unappropriated amount allocated
3 to such qualified State under section 402(g)(1)(A).

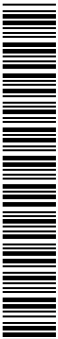
4 “(B) In this paragraph the term ‘qualified State’
5 means a State for which a certification is made under sub-
6 section (a) and in which there are public domain lands
7 available for leasing under the Mineral Leasing Act (30
8 U.S.C. 181 et seq.).

9 “(2) Payments to States under this subsection shall
10 be made, without regard to any limitation in section
11 401(d), in the same manner as if paid under section 35
12 of the Mineral Leasing Act (30 U.S.C. 191) and concu-
13 rently with payments to States under that section. The
14 funds distributed under this section shall be referred to
15 as the ‘Cubin-Thomas Mineral Fund’.

16 “(3) The amount allocated to any State under section
17 402(g)(1)(A) that is paid to such State as a result of a
18 payment under paragraph (1) of this subsection shall be
19 reallocated and available for grants under section
20 402(g)(5).”.

21 **SEC. 203. USE OF REVENUES FROM COASTAL PLAIN.**

22 (a) USE OF REVENUES.—Title IV of the Surface
23 Mining Control and Reclamation Act of 1977 (30 U.S.C.
24 1231 et seq.) is amended by adding at the end the fol-
25 lowing:



1 **“SEC. 415. USE OF REVENUES FROM COASTAL PLAIN OF**
2 **ALASKA.**

3 “(a) COAL MINING FAIRNESS FUND.—There is es-
4 tablished in the Treasury a separate account to be known
5 as the ‘Coal Mining Fairness Fund’ (hereafter in this sec-
6 tion referred to as the ‘Account’).

7 “(b) APPROPRIATIONS TO ACCOUNT.—

8 “(1) IN GENERAL.—There are hereby appro-
9 priated to the Account amounts equivalent to the
10 amounts received by the United States as bonuses,
11 rents, or royalties from the exploration, development,
12 and production of the oil and gas resources of the
13 Coastal Plain, that are not required to be otherwise
14 paid or deposited under section 109(a) or 112(d) of
15 the Arctic Coastal Plain Domestic Energy Security
16 Act of 2004.

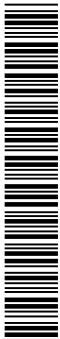
17 “(2) REPAYABLE ADVANCES.—

18 “(A) IN GENERAL.—There are hereby ap-
19 propriated to the Account for each fiscal year
20 as a repayable advance an amount equal to the
21 excess (if any) of—

22 “(i) the expenditures required under
23 subsection (c) for such year, over

24 “(ii) the amount appropriated by
25 paragraph (1) for such year.

26 “(B) REPAYMENT OF ADVANCES.—

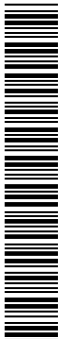


1 “(i) IN GENERAL.—Advances made to
2 the Account shall be repaid, and interest
3 on such advances shall be paid, to the gen-
4 eral fund of the Treasury when the Sec-
5 retary of the Interior determines that mon-
6 eys are available for such purposes in the
7 Account.

8 “(ii) FINAL REPAYMENT.—No ad-
9 vance shall be made to the Account after
10 December 31, 2007, and all advances to
11 the Account shall be repaid on or before
12 September 30, 2009.

13 “(C) RATE OF INTEREST.—Interest on ad-
14 vances made to the Account shall be at a rate
15 determined by the Secretary of the Treasury
16 (as of the close of the calendar month preceding
17 the month in which the advance is made) to be
18 equal to the current average market yield on
19 outstanding marketable obligations of the
20 United States with remaining periods to matu-
21 rity comparable to the anticipated period during
22 which the advance will be outstanding and shall
23 be compounded annually.

24 “(c) EXPENDITURES.—



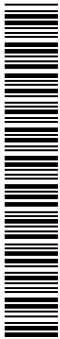
1 “(1) COMBINED FUND.—The Secretary of the
2 Interior shall pay from the Account to the Combined
3 Fund amounts necessary (after the payments under
4 section 402(h)) to meet the obligations of the Com-
5 bined Fund.

6 “(2) REFUNDS OF 2004 PREMIUMS, ETC.—Not
7 later than December 1, 2004, the Secretary of the
8 Interior shall pay from the Account to each specified
9 person an amount equal to the amount of premiums
10 or assigned operator contributions paid by such per-
11 son for fiscal year 2004 to the extent such premiums
12 and contributions have not been refunded under sec-
13 tion 402(h)(6).

14 “(3) PREMIUMS, ETC. OTHERWISE PAYABLE
15 AFTER 2004.—

16 “(A) IN GENERAL.—At the beginning of
17 each fiscal year after fiscal year 2004, the Sec-
18 retary of the Interior shall pay from the Ac-
19 count to the Combined Fund an amount equal
20 to the amount of premiums or assigned oper-
21 ator contributions which would (but for sub-
22 paragraph (B)) be required to be paid by speci-
23 fied persons for such fiscal year.

24 “(B) WAIVER OF LIABILITY.—For waiver
25 of liability for amounts paid under subpara-



1 graph (A), see section 9704(j) of the Internal
2 Revenue Code of 1986.

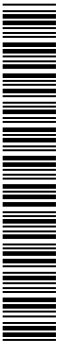
3 “(4) 1992 PLAN.—The Secretary of the Interior
4 shall pay from the Account to the 1992 Plan (as de-
5 fined in section 402(h)) amounts necessary (after
6 the appropriations under section 402(h)) to pay the
7 amounts described in section 402(h)(4).

8 “(5) 1993 PLAN.—The Secretary of the Interior
9 shall pay from the Account to the 1993 Plan
10 amounts necessary (after the appropriations under
11 section 402(h)) to pay the amounts described in sec-
12 tion 402(h)(5).

13 “(6) QUALIFIED STATES.—

14 “(A) IN GENERAL.—The Secretary of the
15 Interior shall pay from the Account to each
16 qualified State an amount equal to the sum of
17 the aggregate unappropriated amount allocated
18 to such qualified State under subparagraph (A)
19 or (B), as applicable, of section 402(g)(1).

20 “(B) REALLOCATION.—The amount allo-
21 cated to any qualified State under section
22 402(g)(1) that is paid to such qualified State as
23 a result of a payment under subparagraph (A)
24 shall be reallocated and available for grants
25 under section 402(g)(5).



1 “(d) DEFINITIONS.—For purposes of this section—

2 “(1) COASTAL PLAIN.—The term ‘Coastal
3 Plain’ has the meaning given that term in section
4 102 of the Arctic Coastal Plain Domestic Energy
5 Security Act of 2004.

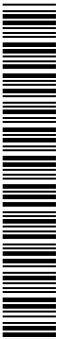
6 “(2) SPECIFIED PERSON.—The term ‘specified
7 person’ means an assigned operator (as defined in
8 section 9701(c)(5) of the Internal Revenue Code of
9 1986), a related person of such assigned operator,
10 and a successor-in-interest of such operator or per-
11 son, if according to the records of the Combined
12 Fund such assigned operator—

13 “(A) was assessed or is otherwise liable for
14 premiums to the Combined Fund in October
15 2001, and

16 “(B) was not—

17 “(i) a signatory to the 1988 or any
18 later National Bituminous Coal Wage
19 Agreement,

20 “(ii) a signatory to an agreement
21 (other than the National Coal Mine Con-
22 struction Agreement or the Coal Haulers’
23 Agreement) containing pension and health
24 care contribution and benefit provisions
25 that are identical to those contained in the



1 1988 National Bituminous Coal Wage
2 Agreement, or

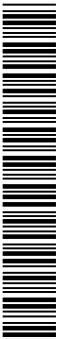
3 “(iii) an employer from which con-
4 tributions were actually received after
5 1987 and before July 20, 1992, by the
6 1950 United Mine Workers of America
7 Benefit Plan Benefit Plan or the 1974
8 United Mine Workers of America Benefit
9 Plan in connection with employment in the
10 coal industry during the period covered by
11 the 1988 National Bituminous Coal Wage
12 Agreement.

13 “(3) COMBINED FUND.—The term ‘Combined
14 Fund’ means the United Mine Workers of America
15 of America Combined Benefit Fund established
16 under section 9702 of the Internal Revenue Code of
17 1986.

18 “(4) QUALIFIED STATE.—The term ‘qualified
19 State’ means a State—

20 “(A) for which a certification is made
21 under subsection 411(a); and

22 “(B) in which there are no public domain
23 lands, in the case of a State.”.



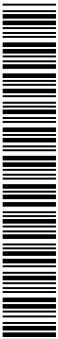
1 (b) CLERICAL AMENDMENT.—The table of contents
2 in the first section of such Act is amended by inserting
3 after the item relating to section 414 the following:

“415. Use of revenues from Coastal Plain of Alaska.”.

4 **SEC. 204. PROVISIONS RELATING TO THE IMPLEMENTA-**
5 **TION OF THIS TITLE.**

6 (a) TRANSITION.—(1) Amounts allocated under sec-
7 tion 402(g)(2) of the Surface Mining Control and Rec-
8 lamation Act of 1977 (30 U.S.C. 1232(g)(2)) (excluding
9 interest) prior to the date of enactment of this Act for
10 the program set forth under section 406 of that Act (30
11 U.S.C. 1236), but not appropriated prior to such date,
12 shall be available in fiscal year 2005 and thereafter for
13 the payments referred to in section 402(h)(1) of such Act
14 (30 U.S.C. 1232(h)), as amended by this Act, in the same
15 manner as are other amounts available for such payments.

16 (2) Notwithstanding any other provision of law, inter-
17 est credited to the fund established by section 401 of the
18 Surface Mining Control and Reclamation Act of 1977 (30
19 U.S.C. 1231) that is not transferred to the Combined
20 Fund referred to in section 402(h) of such Act (30 U.S.C.
21 1232(h)), as amended by this Act, prior to the date of
22 enactment of this Act shall be available in fiscal year 2004
23 and thereafter for the payments referred to in section
24 402(h)(1) of such Act (30 U.S.C. 1232(h)), as amended

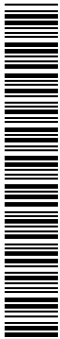


1 by this Act, in the same manner as are other amounts
2 available for such payments.

3 (3) Amounts shall be available as provided in para-
4 graphs (1) and (2) only to the extent that the amounts
5 payable under section 402(h)(1) of such Act without re-
6 gard to the limitation in section 402(h)(2) of such Act
7 exceed such limitation.

8 (4) Amounts shall be available as provided in para-
9 graphs (1) and (2) for any fiscal year only if the Secretary
10 of the Interior reasonably expects that no premium will
11 be required to be paid during such year under section
12 9704 of the Internal Revenue Code of 1986 by reason of
13 payments under section 415(c)(3) of this Act.

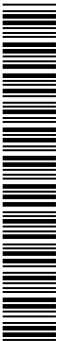
14 (b) INVENTORY.—Within one year after the date of
15 enactment of this Act, the Secretary of the Interior shall
16 complete a review of all additions made, pursuant to
17 amendments offered by States and Indians tribes after
18 December 31, 1998, to the inventory referred to in section
19 403(c) of the Surface Mining Control and Reclamation
20 Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-
21 tions reflect eligible lands and waters pursuant to section
22 404 of such Act (30 U.S.C. 1234) that meet the priorities
23 set forth in paragraphs (1) and (2) of section 403(a) of
24 such Act (30 U.S.C. 1233(a)(1) and (2)), and are cor-
25 rectly identified pursuant to such priorities. Any lands or



1 waters that were included in the inventory pursuant to the
2 general welfare standard set forth in section 403(a) of
3 such Act (30 U.S.C. 1233(a)) before the date of enact-
4 ment of this Act that are determined in the review to no
5 longer meet the criteria set forth in paragraphs (1) and
6 (2) of section 403(a) of such Act, as amended by this Act,
7 shall be removed from the inventory.

8 (c) CLARIFICATION.—For the purposes of section
9 528(2) of the Surface Mining Control and Reclamation
10 Act of 1977 (30 U.S.C. 1278(2)), the term “government-
11 financed” shall not include funds made available under
12 title IV of such Act.

13 (d) PAYMENT OF TRIBAL.—(1) Notwithstanding any
14 other provision of law and by not later than December
15 31, 2004, the Secretary of the Interior shall use amounts
16 allocated under section 402(g)(2) of the Surface Mining
17 Control and Reclamation Act of 1977 (30 U.S.C.
18 1232(g)(2)) (excluding interest) prior to the date of enact-
19 ment of this Act for the program set forth under section
20 406 of that Act (30 U.S.C. 1236), but not appropriated
21 prior to such date, to pay an amount determined in ac-
22 cordance with paragraph (2) to any Indian tribe that has
23 made the certification referred to in section 411 of the
24 Surface Mining Control and Reclamation Act of 1977 (30
25 U.S.C. 1240a).



1 (2) The payment to an Indian tribe under paragraph
2 (1) shall not exceed the aggregate unappropriated amount
3 allocated to such tribe under section 402(g)(1)(B) of such
4 Act (43 U.S.C. 1232(g)(1)(B)) as of the date of the enact-
5 ment of this Act, and shall be made in lieu of payment
6 of such aggregate allocated amount.

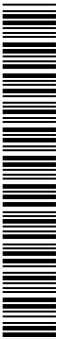
7 (e) REMINING.—

8 (1) EXTENSION OF AUTHORITY.—Section
9 511(e) of the Surface Mining Control and Reclama-
10 tion Act of 1977 (30 U.S.C. 1260(e)) is amended by
11 striking “2004” and inserting “2019”.

12 (2) SAVINGS CLAUSE.—Except as provided in
13 paragraph (1), nothing in this section shall be con-
14 sidered to modify or amend any provision of law gov-
15 erning coal remining.

16 (f) ENSURING AVAILABILITY OF MINERAL LEASING
17 ACT REVENUES.—Section 949(a)(1) of the Energy Policy
18 Act of 2004 is amended by inserting “(A)” before the first
19 sentence, and by adding at the end the following:

20 “(B) Amounts derived from leases issued under
21 the Mineral Leasing Act shall be deposited under
22 subparagraph (A) for a fiscal year only to the extent
23 that amounts derived from leases issued under the
24 Outer Continental Shelf Lands Act and available for
25 such deposit for the fiscal year (after distribution of



1 any such funds as described in subsection (c)) are
2 less than \$150,000,000.”.

3 **TITLE III—AMENDMENTS OF IN-**
4 **TERNAL REVENUE CODE OF**
5 **1986**

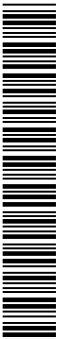
6 **SEC. 301. WAIVER OF PREMIUMS FOR CERTAIN OPERA-**
7 **TORS.**

8 (a) IN GENERAL.—Section 9704 of the Internal Rev-
9 enue Code of 1986 (relating to liability of assigned opera-
10 tors) is amended by adding after subsection (i) the fol-
11 lowing new subsection:

12 “(j) WAIVER OF PREMIUMS FOR CERTAIN OPERA-
13 TORS.—No premium shall be required to be paid under
14 this section to the extent of the amount of such premium
15 which is paid under section 415 of the Surface Mining
16 Control and Reclamation Act of 1977.”

17 (b) USE OF AMOUNTS PAID FROM ABANDONED
18 MINE RECLAMATION FUND.—Paragraph (2) of section
19 9705(b) of such Code is amended to read as follows:

20 “(2) USE OF FUNDS.—Any amount transferred
21 under paragraph (1) for any fiscal year shall be used
22 as provided in such section 402(h) (as in effect on
23 the date of the enactment of the Abandoned Mine
24 Lands Reclamation Reform Act of 2004).”.



1 **SEC. 302. PREPAYMENT OF PREMIUM LIABILITY FOR COAL**
2 **INDUSTRY HEALTH BENEFITS.**

3 (a) IN GENERAL.—Section 9704 of the Internal Rev-
4 enue Code of 1986 (relating to liability of assigned opera-
5 tors) is amended by adding at the end the following new
6 subsection:

7 “(k) PREPAYMENT OF PREMIUM LIABILITY.—

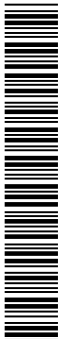
8 “(1) IN GENERAL.—If—

9 “(A) a payment meeting the requirements
10 of paragraph (2) is made to the Combined
11 Fund—

12 “(i) by or on behalf of any assigned
13 operator which is a member of a controlled
14 group of corporations (within the meaning
15 of section 52(a)) the common parent of
16 which is a corporation the shares of which
17 are publicly traded on a United States ex-
18 change, or

19 “(ii) by or on behalf of any related
20 person to any assigned operator within
21 that controlled group of corporations, and

22 “(B) the common parent of such group is
23 jointly and severally liable for any premium
24 which would (but for this subsection) be re-
25 quired to be paid by any such operator,



1 then no person (other than such common parent)
2 shall be liable for any premium for which any oper-
3 ator within that controlled group of corporations
4 would otherwise be liable.

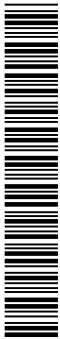
5 “(2) REQUIREMENTS.—A payment meets the
6 requirements of this paragraph if—

7 “(A) the amount of the payment is not less
8 than the present value of the total premium li-
9 ability of the assigned operator or operators
10 within that controlled group of corporations for
11 its or their assignees under this chapter with
12 respect to the Combined Fund (as determined
13 by the operator’s enrolled actuary, as defined in
14 section 7701(a)(35)), using actuarial methods
15 and assumptions each of which is reasonable
16 and which are reasonable in the aggregate, as
17 determined by such enrolled actuary;

18 “(B) a signed actuarial report is filed with
19 the Secretary of Labor by such enrolled actuary
20 containing—

21 “(i) the date of the actuarial valuation
22 applicable to the report; and

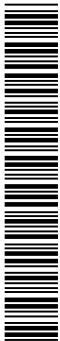
23 “(ii) a statement by the enrolled actu-
24 ary signing the report that to the best of
25 the actuary’s knowledge the report is com-



1 plete and accurate and that in the actu-
2 ary's opinion the actuarial assumptions
3 used are in the aggregate reasonably re-
4 lated to the experience of the operator and
5 to reasonable expectations; and

6 “(C) 30 calendar days have elapsed after
7 the report required by subparagraph (B) is filed
8 with the Secretary of Labor, and the Secretary
9 of Labor has not notified the assigned operator
10 in writing that the requirements of this para-
11 graph have not been satisfied.

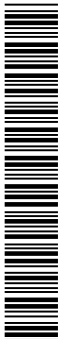
12 “(3) USE OF PREPAYMENT.—The Combined
13 Fund shall establish and maintain an account for
14 each assigned operator making such payment or on
15 behalf of which such payment was made (with earn-
16 ings thereon) and use all amounts in such account
17 exclusively to pay premiums that would (but for this
18 subsection) be required to be paid by the assigned
19 operator. Upon termination of the obligations for
20 premium liability of any assigned operator for which
21 such account is maintained, all funds remaining in
22 such account (and earnings thereon) shall be re-
23 funded to such entity as may be designated by the
24 common parent described in paragraph (1)(B).”.



1 (b) JOINT AND SEVERAL LIABILITY OF RELATED
2 PERSONS.—Section 9711(c) of such Code is amended to
3 read as follows:

4 “(c) JOINT AND SEVERAL LIABILITY OF RELATED
5 PERSONS.—

6 “(1) Each related person of a last signatory op-
7 erator to which subsection (a) or (b) applies shall be
8 jointly and severally liable with the last signatory op-
9 erator for the provision of health care coverage de-
10 scribed in subsection (a) or (b), provided, however,
11 that an assigned operator who is a last signatory op-
12 erator under section 9711 and a member of a con-
13 trolled group of corporations (within the meaning of
14 section 52(a)) or a related person to any assigned
15 operator within that controlled group of corpora-
16 tions, that has met the requirements of section
17 9704(k) (1) and (2) and has provided security de-
18 scribed in paragraph 9711(c)(2), shall be relieved of
19 all such joint and several liability as of the date
20 upon which such requirements are met, provided,
21 however, that the common parent of such controlled
22 group of corporations shall remain liable for the pro-
23 vision of benefits required to be provided under sub-
24 section (a) or (b).



1 “(2) Security meets the requirements of this
2 paragraph if—

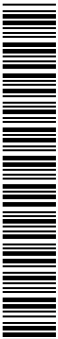
3 “(A) the security (in the form of a bond,
4 letter of credit or cash escrow) is provided to
5 the trustees of the 1992 UMWA Benefit Plan,
6 solely for the purpose of paying premiums for
7 beneficiaries described in section 9712(b)(2)(B),
8 equal in amount to 1 year’s liability of the last
9 signatory operator under section 9711, deter-
10 mined by using the average cost of such opera-
11 tor’s liability during its prior 3 calendar years;

12 “(B) the security is in addition to any
13 other security required under any other provi-
14 sion of this Act; and

15 “(C) the security remains in place for 5
16 years.

17 “(3) Upon termination of the obligations of the
18 last signatory operator providing such security or
19 the expiration of 5 years, whichever occurs first, the
20 full amount of such security (and earnings thereon)
21 shall be refunded to the last signatory operator.”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect on the date of the enactment
24 of this Act.



1 **SEC. 303. DEFINITION OF SUCCESSOR IN INTEREST.**

2 (a) IN GENERAL.—Subsection (c) of section 9701 of
3 the Internal Revenue Code of 1986 is amended by adding
4 at the end the following new paragraph:

5 “(8) SUCCESSOR IN INTEREST.—

6 “(A) SAFE HARBOR.—The term ‘successor
7 in interest’ shall not include any person—

8 “(i) who is an unrelated person to a
9 seller; and

10 “(ii) who purchases for fair market
11 value assets, or all the stock of a related
12 person, in a bona fide, arm’s-length sale
13 which is subject to section 5 of the Securi-
14 ties Act of 1933 (15 U.S.C. 77f et seq.) or
15 the Securities Exchange Act of 1934 (15
16 U.S.C. 78a et seq.).

17 “(B) UNRELATED PERSON.—The term
18 ‘unrelated person’ means a purchaser who does
19 not bear a relationship to the seller described in
20 section 267(b).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a) shall apply to transactions after the date
23 of the enactment of this Act.

